

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KEVIN N. ESLINGER,)	CASE NO. 5: 09 CV 912
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
MICHAEL J. ASTRUE,)	MEMORANDUM OPINION
COMMISSIONER OF SOCIAL SECURITY,)	AND ORDER
)	
Defendant.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate James S. Gallas, issued on April 22, 2010. (ECF # 17.) In the Report and Recommendation, Magistrate Judge Gallas recommended that the decision of the Administrative Law Judge (ALJ), which represents Defendant's final determination denying Plaintiff's claim for supplemental security income (SSI) be reversed and remanded. On May 5, 2010, Defendant filed an Objection to the Report and Recommendation. (ECF # 18.) Plaintiff filed a Response to Defendant's Objection on May 19, 2010. (ECF # 19.)


In accordance with Federal Rule of Civil Procedure 72, this Court has reviewed the Report and Recommendation of this case *de novo* and has considered all of the pleadings and filings of the parties. Further, this Court has reviewed the ALJ's findings in Plaintiff's administrative proceedings under the substantial evidence standard. After careful evaluation of the record, this Court declines to adopt the Report and Recommendation. (ECF # 17.)

In particular, this Court finds merit in Defendant's position that a fair reading of Dr. Orlando's report does not suggest the interpretation provided by the Magistrate Judge, namely that Plaintiff would miss work at least three times per month. Because the Court finds that the

ALJ's determination is supported by substantial evidence, Defendant's Objection to the Report and Recommendation is SUSTAINED (ECF # 18) and the decision of the ALJ is AFFIRMED.

This case is TERMINATED.

IT IS SO ORDERED.


DONALD C. NUGENT
United States District Judge

DATED: May 20, 2010